



# House of Representatives

## File No. 756

General Assembly

February Session, 2016

**(Reprint of File No. 423)**

Substitute House Bill No. 5605  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 28, 2016

### ***AN ACT CONCERNING THE TERMINATION OF PARENTAL RIGHTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (j) of section 17a-112 of the 2016 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective July 1, 2016*):

4 (j) The Superior Court, upon notice and hearing as provided in  
5 sections 45a-716 and 45a-717, as amended by this act, may grant a  
6 petition filed pursuant to this section if it finds by clear and convincing  
7 evidence that (1) the Department of Children and Families has made  
8 reasonable efforts to locate the parent and to reunify the child with the  
9 parent in accordance with subsection (a) of section 17a-111b, unless the  
10 court finds in this proceeding that the parent is unable or unwilling to  
11 benefit from reunification efforts, except that such finding is not  
12 required if the court has determined at a hearing pursuant to section  
13 17a-111b, or determines at trial on the petition, that such efforts are not  
14 required, (2) termination is in the best interest of the child, and (3) (A)  
15 the child has been abandoned by the parent in the sense that the parent

16 has failed to maintain a reasonable degree of interest, concern or  
17 responsibility as to the welfare of the child; (B) the child (i) has been  
18 found by the Superior Court or the Probate Court to have been  
19 neglected, abused or uncared for in a prior proceeding, or (ii) is found  
20 to be neglected, abused or uncared for and has been in the custody of  
21 the commissioner for at least fifteen months and the parent of such  
22 child has been provided specific steps to take to facilitate the return of  
23 the child to the parent pursuant to section 46b-129 and has failed to  
24 achieve such degree of personal rehabilitation as would encourage the  
25 belief that within a reasonable time, considering the age and needs of  
26 the child, such parent could assume a responsible position in the life of  
27 the child; (C) the child has been denied, by reason of an act or acts of  
28 parental commission or omission including, but not limited to, sexual  
29 molestation or exploitation, severe physical abuse or a pattern of  
30 abuse, the care, guidance or control necessary for the child's physical,  
31 educational, moral or emotional well-being, except that nonaccidental  
32 or inadequately explained serious physical injury to a child shall  
33 constitute prima facie evidence of acts of parental commission or  
34 omission sufficient for the termination of parental rights; (D) there is  
35 no ongoing parent-child relationship, which means the relationship  
36 that ordinarily develops as a result of a parent having met on a day-to-  
37 day basis the physical, emotional, moral and educational needs of the  
38 child and to allow further time for the establishment or  
39 reestablishment of such parent-child relationship would be  
40 detrimental to the best interest of the child; (E) the parent of a child  
41 under the age of seven years who is neglected, abused or uncared for,  
42 has failed, is unable or is unwilling to achieve such degree of personal  
43 rehabilitation as would encourage the belief that within a reasonable  
44 period of time, considering the age and needs of the child, such parent  
45 could assume a responsible position in the life of the child and such  
46 parent's parental rights of another child were previously terminated  
47 pursuant to a petition filed by the Commissioner of Children and  
48 Families; (F) the parent has killed through deliberate, nonaccidental act  
49 another child of the parent or has requested, commanded, importuned,  
50 attempted, conspired or solicited such killing or has committed an

51 assault, through deliberate, nonaccidental act that resulted in serious  
52 bodily injury of another child of the parent; or (G) the parent [was  
53 convicted as an adult or a delinquent by a court of competent  
54 jurisdiction of a sexual assault resulting] committed an act that  
55 constitutes sexual assault as described in section 53a-70, 53a-70a, 53a-  
56 70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or compelling a spouse or  
57 cohabitor to engage in sexual intercourse by the use of force or by the  
58 threat of the use of force as described in section 53a-70b, if such act  
59 resulted in the conception of the child. [, except a conviction for a  
60 violation of section 53a-71 or 53a-73a, provided the court may  
61 terminate such parent's parental rights to such child at any time after  
62 such conviction.]

63 Sec. 2. Subsections (g) to (j), inclusive, of section 45a-717 of the 2016  
64 supplement to the general statutes are repealed and the following is  
65 substituted in lieu thereof (*Effective July 1, 2016*):

66 (g) At the adjourned hearing or at the initial hearing where no  
67 investigation and report has been requested, the court may approve a  
68 petition terminating the parental rights and may appoint a guardian of  
69 the person of the child, or, if the petitioner requests, the court may  
70 appoint a statutory parent, if it finds, upon clear and convincing  
71 evidence, that (1) the termination is in the best interest of the child, and  
72 (2) (A) the child has been abandoned by the parent in the sense that the  
73 parent has failed to maintain a reasonable degree of interest, concern  
74 or responsibility as to the welfare of the child; (B) the child has been  
75 denied, by reason of an act or acts of parental commission or omission,  
76 including, but not limited to sexual molestation and exploitation,  
77 severe physical abuse or a pattern of abuse, the care, guidance or  
78 control necessary for the child's physical, educational, moral or  
79 emotional well-being. Nonaccidental or inadequately explained  
80 serious physical injury to a child shall constitute prima facie evidence  
81 of acts of parental commission or omission sufficient for the  
82 termination of parental rights; (C) there is no ongoing parent-child  
83 relationship which is defined as the relationship that ordinarily  
84 develops as a result of a parent having met on a continuing, day-to-

85 day basis the physical, emotional, moral and educational needs of the  
86 child and to allow further time for the establishment or  
87 reestablishment of the parent-child relationship would be detrimental  
88 to the best interests of the child; (D) a child of the parent (i) was found  
89 by the Superior Court or the Probate Court to have been neglected,  
90 abused or uncared for, as those terms are defined in section 46b-120, in  
91 a prior proceeding, or (ii) is found to be neglected, abused or uncared  
92 for and has been in the custody of the commissioner for at least fifteen  
93 months and such parent has been provided specific steps to take to  
94 facilitate the return of the child to the parent pursuant to section 46b-  
95 129 and has failed to achieve such degree of personal rehabilitation as  
96 would encourage the belief that within a reasonable time, considering  
97 the age and needs of the child, such parent could assume a responsible  
98 position in the life of the child; (E) a child of the parent, who is under  
99 the age of seven years is found to be neglected, abused or uncared for,  
100 and the parent has failed, is unable or is unwilling to achieve such  
101 degree of personal rehabilitation as would encourage the belief that  
102 within a reasonable amount of time, considering the age and needs of  
103 the child, such parent could assume a responsible position in the life of  
104 the child and such parent's parental rights of another child were  
105 previously terminated pursuant to a petition filed by the  
106 Commissioner of Children and Families; (F) the parent has killed  
107 through deliberate, nonaccidental act another child of the parent or has  
108 requested, commanded, importuned, attempted, conspired or solicited  
109 such killing or has committed an assault, through deliberate,  
110 nonaccidental act that resulted in serious bodily injury of another child  
111 of the parent; (G) except as provided in subsection (h) of this section,  
112 the parent committed an act that constitutes sexual assault as  
113 described in section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b  
114 or 53a-73a or compelling a spouse or cohabitor to engage in sexual  
115 intercourse by the use of force or by the threat of the use of force as  
116 described in section 53a-70b, if such act resulted in the conception of  
117 the child; or [(G)] (H) the parent was [convicted as an adult or a  
118 delinquent by a court of competent jurisdiction of sexual assault  
119 resulting] finally adjudged guilty of sexual assault under section 53a-

120 70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or of  
121 compelling a spouse or cohabitor to engage in sexual intercourse by  
122 the use of force or by the threat of the use of force under section 53a-  
123 70b, if such act resulted in the conception of [a] the child. [except for a  
124 violation of section 53a-71 or 53a-73a provided the court may  
125 terminate such parent's parental rights to such child at any time after  
126 such conviction.]

127 (h) If the petition alleges an act described in subparagraph (G) of  
128 subdivision (2) of subsection (g) of this section that resulted in the  
129 conception of the child as a basis for termination of parental rights and  
130 the court determines that the respondent parent was finally adjudged  
131 not guilty of such act of sexual assault under section 53a-70, 53a-70a,  
132 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73 or of compelling a spouse or  
133 cohabitor to engage in sexual intercourse by the use of force or by the  
134 threat of the use of force under section 53a-70b, the court shall transfer  
135 the case to the Superior Court and the clerk of the Probate Court shall  
136 transmit to the clerk of the Superior Court to which the case was  
137 transferred, the original files and papers in the case. The Superior  
138 Court, upon hearing after notice as provided in this section and section  
139 45a-716, may grant the petition as provided in this section.

140 [(h)] (i) Except in the case where termination is based on consent, in  
141 determining whether to terminate parental rights under this section,  
142 the court shall consider and shall make written findings regarding: (1)  
143 The timeliness, nature and extent of services offered, provided and  
144 made available to the parent and the child by a child-placing agency to  
145 facilitate the reunion of the child with the parent; (2) the terms of any  
146 applicable court order entered into and agreed upon by any individual  
147 or child-placing agency and the parent, and the extent to which all  
148 parties have fulfilled their obligations under such order; (3) the  
149 feelings and emotional ties of the child with respect to the child's  
150 parents, any guardian of the child's person and any person who has  
151 exercised physical care, custody or control of the child for at least one  
152 year and with whom the child has developed significant emotional  
153 ties; (4) the age of the child; (5) the efforts the parent has made to

154 adjust such parent's circumstances, conduct or conditions to make it in  
155 the best interest of the child to return the child to the parent's home in  
156 the foreseeable future, including, but not limited to, (A) the extent to  
157 which the parent has maintained contact with the child as part of an  
158 effort to reunite the child with the parent, provided the court may give  
159 weight to incidental visitations, communications or contributions and  
160 (B) the maintenance of regular contact or communication with the  
161 guardian or other custodian of the child; and (6) the extent to which a  
162 parent has been prevented from maintaining a meaningful relationship  
163 with the child by the unreasonable act or conduct of the other parent of  
164 the child, or the unreasonable act of any other person or by the  
165 economic circumstances of the parent.

166 [(i)] (j) If the parental rights of only one parent are terminated, the  
167 remaining parent shall be sole parent and, unless otherwise provided  
168 by law, guardian of the person.

169 [(j)] (k) In the case where termination of parental rights is granted,  
170 the guardian of the person or statutory parent shall report to the court  
171 within thirty days of the date judgment is entered on a case plan, as  
172 defined by the federal Adoption Assistance and Child Welfare Act of  
173 1980, as amended from time to time, for the child. At least every three  
174 months thereafter, such guardian or statutory parent shall make a  
175 report to the court on the implementation of the plan. The court may  
176 convene a hearing upon the filing of a report and shall convene a  
177 hearing for the purpose of reviewing the plan no more than twelve  
178 months from the date judgment is entered or from the date of the last  
179 permanency hearing held pursuant to subsection (k) of section 46b-129  
180 if the child or youth is in the care and custody of the Commissioner of  
181 Children and Families, whichever is earlier, and at least once a year  
182 thereafter until such time as any proposed adoption plan has become  
183 finalized. If the Commissioner of Children and Families is the statutory  
184 parent for the child, at such a hearing the court shall determine  
185 whether the department has made reasonable efforts to achieve the  
186 permanency plan. In the case where termination of parental rights is  
187 granted, the guardian of the person or statutory parent shall obtain the

188 approval of the court prior to placing the child or youth for adoption  
189 outside the state. Before ordering or approving such placement, the  
190 court shall make findings concerning compliance with the provisions  
191 of section 17a-175. Such findings shall include, but not be limited to: (1)  
192 A finding that the state has received notice in writing from the  
193 receiving state, in accordance with subsection (d) of Article III of  
194 section 17a-175, indicating that the proposed placement does not  
195 appear contrary to the interests of the child, (2) the court has reviewed  
196 such notice, (3) whether or not an interstate compact study or other  
197 home study has been completed by the receiving state, and (4) if such a  
198 study has been completed, whether the conclusions reached by the  
199 receiving state as a result of such study support the placement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2016	17a-112(j)
Sec. 2	July 1, 2016	45a-717(g) to (j)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 17 \$</b>	<b>FY 18 \$</b>
Federal Revenue	FF - Revenue Gain	Approx. \$200,000	Approx. \$200,000

Note: FF=Federal Funds

***Municipal Impact:*** None

#### ***Explanation***

The bill lowers the standard of proof for the termination of parental rights in cases of sexual assault. Doing so increases the federal funding received by Connecticut under the Violence Against Women Act by approximately \$200,000. In addition, the bill makes procedural changes to termination of parental rights that do not result in a fiscal impact.

House "A" struck the underlying bill and replaced it with language that resulted in the impact described above.

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to federal funding.

Sources: Core-CT Financial Accounting System



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**OLR Bill Analysis****sHB 5605 (as amended by House "A")\******AN ACT CONCERNING THE TERMINATION OF PARENTAL RIGHTS.*****SUMMARY:**

This bill reduces the standard of proof a Superior Court or probate court judge must apply when determining whether to terminate parental rights in cases where a child was conceived as a result of a sexual assault. It no longer requires a finding of guilty in such cases.

Under current law, in cases involving children committed to the Department of Children and Families, the Superior Court may terminate parental rights if the parent was convicted of a sexual assault as an adult that resulted in the conception of the child. The bill no longer requires a finding of guilty but instead allows the judge to terminate parental rights if he or she finds, upon clear and convincing evidence, that the parent committed an act that constitutes sexual assault that resulted in the conception of the child.

As under existing law, the bill allows a probate court judge to terminate parental rights if the parent was found guilty of a sexual assault crime and that act resulted in the conception of the child. Under the bill, a probate court judge may also terminate parental rights if he or she finds, upon clear and convincing evidence, that the parent committed an act that constitutes sexual assault that resulted in the conception of the child, except if the respondent (accused) parent was found not guilty of such act, the bill requires the probate court to transfer the case, original files, and related papers to the Superior Court. The bill allows the Superior Court to grant the petition for termination of parental rights after notice and a hearing.

The bill's provisions specifically apply to eight types of sexual assault crimes: 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> degree sexual assault; 3<sup>rd</sup> degree sexual assault with a firearm; 1<sup>st</sup> degree aggravated sexual assault; aggravated sexual assault of a minor; and sexual assault in a spousal or cohabiting relationship.

The bill maintains existing law's requirement that in all termination of parental rights cases, the court also find, upon clear and convincing evidence, that terminating parental rights is in the child's best interest.

\*House Amendment "A" establishes the provision that requires the probate court to transfer to the Superior Court, termination of parental rights cases where the respondent parent is found not guilty of the sexual assault charges. It allows the Superior Court judge to terminate parental rights in such cases after notice and a hearing. The amendment also changes the bill's effective date from October 1, 2016 to July 1, 2016.

EFFECTIVE DATE: July 1, 2016

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (03/16/2016)